



National Crime Prevention and Privacy Compact
COMPACT COUNCIL MEETING
SACRAMENTO, CA
JANUARY 8-9, 2002
MINUTES

The meeting of the Compact Council was called to order at 9:00 a.m. on January 8, 2002, in the Gardenia meeting room of the Sheraton Grand Hotel, Sacramento, CA, by Compact Council Chairman Wilbur Rehmann. In Chairman Rehmann's opening remarks, he noted that both the FBI and Colorado representatives had designated proxies for the meeting. Three of the four additional state Compact Officers were also in attendance. Chairman Rehmann provided a status on the Compact ratification by the New Jersey's legislature. It was noted that two State Compact Officer vacancies exist on the Council due to Mr. Dennis DeBacco and Mr. Allan Stanley's departures. Upon appointment from the Attorney General, Mr. Rusty Featherstone and Ms. Diane Schenker will be filling those vacancies on the Council.

Ms. Cathy Morrison, Interim FBI Compact Officer, called roll of the Compact Council members. The following Compact Council members, or their proxies, were in attendance.

State Compact Officers:

- Lt. Col. Jeff Harmon, Maine State Police
- Mr. Paul Heppner, Georgia Bureau of Investigation
- Mr. Wilbur Rehmann, Montana Department of Justice
- Ms. Donna Uzzell, Florida Department of Law Enforcement
- Mr. Terrance Hoil, Iowa Division of Criminal Investigation
- Major Mark Huguley, South Carolina Law Enforcement Division
- Lt. Col. Marjorie Kolpa, Connecticut State Police
- **Mr. Bob Armstrong, proxy** for Mr. Allan Stanley, Colorado Bureau of Investigation

State/Local Criminal Justice Agency Representative:

- Lt. Clifford Daimler, Oregon State Police

Federal Noncriminal Justice Agency Representative:

- Ms. Kathy Dillaman, Office of Personnel Management

Advisory Policy Board Representative:

- Mr. William Casey, Boston Police Department

Federal Bureau of Investigation:

- **Mr. William Temple, proxy** for Mr. Michael Kirkpatrick, FBI, CJIS Division
Additional attendees in the gallery introduced themselves and the agency they represented (see Attachment 1).

The first item of business was the approval of the minutes from the November 2001 meeting. A grammatical error was noted under topic 7, number 6; the minutes should be corrected to reflect that the Council had received an invitation to address the National Governor's Association.

Compact Council Action: Mr. Bill Casey made a motion to approve the November 2001 minutes with clarification. Seconded by Mr. Terrance Hoil. Motion carried.

Lt. Col. Harmon noted a correction to the May 2001 minutes regarding the WEBCHECK topic. Mr. Mike Powers, Ohio Bureau of Criminal Identification and Investigation provided the following points for clarification: The response time of two business days as stated in the May 2001 minutes was the top end response time for background checks performed in certain conditions. It was requested that the reference to the two business days be deleted. Also, the WEBCHECK hit rate of 10,000 as stated was inaccurate. This number was the rate of total hits, not strictly limited to WEBCHECK. Mr. Powers suggested that the reference to 2-D bar code be changed to magnetic strip.

Compact Council Action: Lt. Col. Jeff Harmon made a motion to make the noted changes to the May 2001 meeting minutes. Seconded by Mr. Bill Casey. Motion carried.

Topic #1 Discussion on the Applicability of Compact Council Rules, Procedures, or Standards

Chairman Rehmann provided a summary of the ongoing discussions on the applicability of Council rules, more commonly referred to as the "jurisdiction issue". Representatives from the Council, the FBI, the CJIS Advisory Policy Board, and SEARCH Group have discussed at length the authority of the Council to promulgate rules regarding the noncriminal justice use of the Interstate Identification Index (III) System. The Council has indicated that one set of rules for the III System is more operationally feasible and therefore preferable, and that the rules adopted by the Council apply in general to the use of the III for noncriminal justice purposes. This could be accomplished through an user agreement between the nonparty states and the Council which acknowledges one set of rules. The Council and FBI are working toward drafting a document (with the assistance of SEARCH) which allows the nonparty states to enter into a voluntary agreement to abide by the rules that are adopted by the Council. The document would set forth the purpose and terms of agreement between the parties.

Mr. Temple spoke on behalf of the FBI and agreed that one set of rules for the noncriminal justice use of the III is needed. The Compact exists to handle such rules, and an understanding between the Council and nonparty states is a practical approach. The next step is to work out agreeable language.

The Council discussed the expected progressive steps in drafting the user agreement. The final iteration of the document would require Council approval before gaining signatures from nonparty states. Members acknowledged the Council's limited structure might not provide workable avenues of outreach to nonparty states. The task could prove difficult, and require

outside resources and, therefore, the Council may want to consider asking for assistance in discussions with nonparty states.

The Council considered how the user agreement would be implemented in regard to non-Compact states who have submitted requests for approval to use the emergency placement rule (purpose code X) and if outreach to those states should be made a priority. The Council recognized no previous differentiation occurred on the use and applicability of the rule regarding party or nonparty states. There was no disagreement to seeking signatures first from those states using the emergency placement rule and the delayed submission practice. Lt. Col. Harmon stated that one could infer that in requesting access, the nonparty state's agreement to abide by the Council's rule was implicit. There may be numerous opinions on why the emergency placement rule would apply to nonparty states, absent any type of signed agreement; however the user agreement provides a mechanism for voluntary recognition of the Council's authority. When a nonparty state requests noncriminal justice access to III for emergency placement, the states have already agreed to abide by the Council rule. A signed agreement to that affect only makes good business sense. There is no requirement to have this agreement, but it attains states awareness by affirmative action, mutually recognizing and consenting to following the rules. Some Council members expressed that a nonparty state in compliance with the rules certainly has a right to use the III for that noncriminal justice purposes, even if an agreement is not executed.

Ms. Uzzell, Chair of the Sanctions Committee, stated the committee had envisioned a proposed sanctions process in which a nonparty state would have an agreement with the FBI. Language which indicates the Council's intent on user agreements with nonparty states would need to be added into the rule on the sanctions process. The Sanctions Committee may need to rethink the issue with the nonparty states that have gained III access though the emergency placement rule.

Lt. Col. Harmon briefly described two areas which differentiate a party and a nonparty state. When discussing jurisdiction, one should note that the Compact binds the signatory state to provide its entire criminal history record to the receiving state (with the exception of sealed records); the dissemination and use of the records will be governed in accordance with the laws of the receiving state. That is a dramatic departure from state practice; the Compact supersedes previous state law, overcoming the dissemination prohibition and allows the sharing of criminal history record information in an interstate setting. The records are provided by Compact states to nonparty states with an understanding that those records are being provided in an environment where a nonparty state(s) is subject to the rules that the Council sets forth. The Compact party states are afforded assurance of the proper use of these records through representation to the Council, the regulatory body given oversight responsibilities to manage the system of records for noncriminal justice uses.

The Council did not come to resolution on what action would be taken if there was misuse of the system, and the state had not yet signed the user agreement.

Mr. Lou Krofka spoke on behalf of state of New Jersey. He preferred an MOU with the state central repository instead of requiring the nonparty state secure an MOU with every non-

government entity which requests the use of the III for the emergency placement of children. As an NFF pilot state, New Jersey has operated under an MOU with the FBI. Since the enactment of the Compact, the authority has been given to the Council, and states must now abide by the Council's regulations.

Mr. Bob McKeever from Maryland also provided comments. As a nonparty state Maryland would abide by such an executed agreement. The Compact Council's position should not be interpreted by nonparty states as a disincentive to ratify the Compact. Secondly, an MOU should have limitations in that it could not exceed the provisions of the Compact. For example, only a party state may be required to disclose its records for authorized noncriminal justice purposes.

Compact Council Action: Lt. Col. Jeff Harmon made a motion for the Council to authorize the Chair to continue discussions with the FBI and the drafting of a proposed agreement. That agreement is to be circulated to the FBI and the Compact Council members for comment; upon receipt of those comments, the executive committee be authorized to engage in the process of discussions with nonparty states regarding execution of the agreement. In addition, the Chair will report back to the Council on the progress at the May 2002 meeting . The Council may take action if progress hasn't been sufficient at that point. Seconded by Lt. Col. Marjorie Kolpa. Motion carried.

Topic #2 Standards Committee Report on Record Screening Requirements

Lt. Col. Harmon provided the Standards Committee Report on the draft record screening requirements. The rule denotes that if a receiving state were statutorily bound to intrastate screening prior to record dissemination, or the state was exempt from record screening through state statute or attorney general's order, the state would handle III records for noncriminal justice purposes in that same method. Absent state guidance, the receiving state would screen out of state III records in the same manner as their own noncriminal justice records.

The committee stated the proposed modifications, as indicated by redlined text were not substantive. Some of the proposed modifications were driven by the jurisdiction issue. The Standards Committee found the proposed modifications added clarity to the rule and were acceptable. The Council agreed to accept the redlined changes to the rule with the caveat that language regarding the user agreements with nonparty states might need revision based on the outcome of discussions between the FBI and the Council.

Compact Council Action: Lt. Col. Jeff Harmon made a motion to propose the adoption of the record screening rule with the understanding that language in the supplementary information accompanying the rule would be modified to take into account the changes or to reconcile the changes with the proposed agreements with nonparty states. Seconded by Lt. Cliff Daimler. Motion carried.

Topic #3 Standards Committee Report on NFF Qualification Requirements and Audit Criteria

Lt. Col. Jeff Harmon provided an overview of this topic. The Standards Committee and Sanctions Committee Chair, Ms. Donna Uzzell had jointly discussed portions of this topic. Comments regarding the NFF standards and the ability to determine noncompliance and applicable sanctions for the NFF standards were provided by the Sanctions Committee Chair. Further review and modification of the NFF Qualification Requirements may be necessary prior to Council action. The Standards Committee will continue its work on the NFF Qualification Requirements.

Topic #4 Sanctions Committee Report

This topic was deferred until Wednesday, January 9th for discussion.

Ms. Donna Uzzell, Sanctions Committee Chair, presented this topic. The Sanctions Committee looked at each item in the NFF Qualification Requirements document to determine if each qualification requirement should be sanctionable or nonsanctionable and how to generally approach the sanctions process. The Standards Committee considered noncompliance to each standard as potentially sanctionable. The Sanctions Committee reevaluated the requirements and reached concurrence that all findings of noncompliance to a qualification requirement should be brought to the Sanctions Committee's attention for a potential sanction. The Sanctions Committee will have the flexibility to determine the extent or range of applicable sanctions. The Committee recommended that the Council coordinate with the APB on audit findings for a particular agency that involves misuse of III for both criminal justice and noncriminal justice purposes. The Sanctions Committee's intent is to give due consideration to diverse state practices and rules, as well as the Compact Council rules and procedures, prior to administering sanctions to insure compliance with the Compact and its rules.

It was noted that the draft records screening requirement states that user agreement between non-Compact states and the Compact Council, as facilitated by the FBI, will help to insure system policy compliance until the states become Compact signatories. Language to that affect should be incorporated in the Sanctions rule as well.

Compact Council Action: Mr. Paul Heppner made a motion to approve the proposed sanctions process concept paper. (See attachment 2) Seconded by Major Huguley. Motion passed with one in opposition.

Topic #5 Standards Committee Report on Improvements to the Criminal History Background Process

Lt. Col. Harmon provided a brief background on the proposal to study the use of flat fingerprints in noncriminal justice background checks. The Standards Committee requested the Council consider two aspects of the issue: 1) Expanding the concept to consider the overall noncriminal justice background system as it relates to the services provided; and 2) Evaluate specific areas such as flat fingerprints where there is opportunity to enhance the service to the noncriminal justice user.

The Council members were asked to consider the whole process end to end and identify particular sub-projects that could promote or augment present day practices.

Dr. Kelly Buck presented details from a similar initiative of the Security Guards Subcommittee of the International Association of Chiefs of Police Private Sector Liaison Committee, who are interested in improving systems for screening personnel using criminal records (see Attachment 3). She discussed current initiatives in improving the use of criminal records to screen personnel for positions of trust. Dr. Buck's study compares the information received from a local agency background check to a state level check. Dr. Buck requested the Council members provide feedback on her draft document entitled, *The Guide on Improving Efficiency, Effectiveness and Fairness of Using Centralized Criminal History Record Checks to Screen Personnel for Positions of Trust* by February 1, 2002.

Mr. Owen Greenspan, SEARCH, presented commentary (see Attachment 4) on the draft document, *A Safer Nation*, which addresses the noncriminal justice background checks system and potential modifications the Compact Council might recommend to improve the current system.

The Standards Committee requested a review on the approach outlined in the document which focused on potential areas of improvement to the criminal history background process for noncriminal justice users. It was requested that distribution, review and comment on the document be limited to Council members. Chairman Rehmann requested detailed comments be provided to Mr. Greenspan for incorporation into the next iteration. The Committee will consider the document again prior to further Council consideration.

Mr. Gary Barron, FBI/CJIS, provided the Council with a progress update on the National Fingerprint-based Applicant Check Study (N-FACS), which CJIS is conducting with the state of Ohio. (See Attachment 5). Mr. Barron explained that Ohio is in the beginning stages of this pilot. It is anticipated that Ohio commence sending flat fingerprint images for the test in late summer 2002. The goal is to let that test run for approximately a 12-month period. Additionally Texas is assessing the use of flat fingerprint images. The Compact Council will be provided updates intermittently once the testing has begun. Any suggestions or comments related to N-FACS should be directed to Mr. Gary Williams, CJIS.

Mr. Mike Powers, Ohio Bureau of Criminal Information and Identification, provided an overview of Ohio's planned stages and expected timeline for participation in the N-FACS. (See Attachment 6).

Lt. Col. Harmon stated the Council will need to consider the outcome of the test and if the use of flat fingerprints provides acceptable accuracy as a means for positive identification. The Compact requires positive identification for noncriminal justice purposes; the recognized standard for positive identification thus far has been rolled fingerprints. Depending on the test outcome, use of flat fingerprint searches will be the first step towards improving the background checks system. From a policy standpoint, the next question will be implementation strategy; CJIS would need to assess how to move forward, determine the implications for costs and resources, and also what the Council could do to help move this project forward.

Topic #6 Proposed Rulemaking Process

Ms. Paula Barron, FBI CJIS staff, presented this topic. At the November 2001 Council meeting Chairman Rehmann suggested applying a six step rulemaking process which included a comment period for all proposed rules. The Compact staff was asked to add further definition to the process and provide the Council with options regarding memorializing the rulemaking guidelines. The options presented at the January 2002 meeting were (1) to amend the Council Bylaws Section 9.1 to incorporate the six-step process or (2) detail the six-step process as informational inserts into the Council binders, to be pointed out at new member orientations.

The Council's discussion included concerns with public accessibility to this information on the rulemaking process, limiting the Council flexibility, how to accomplish modifying the steps in the future if necessary, and maintaining the current emergency rulemaking option as stated in the bylaws.

Compact Council Action: Mr. William Casey made a motion to adopt this as policy and develop a policy manual that can be made available to the public through the Compact Office. Staff would distribute a copy of said policy book to all Council members and update as necessary. Seconded by Lt. Col. Kolpa. Motion carried.

Topic #7 Expansion of Current Audit Programs to Include Authorized Noncriminal Index (III)

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Ms. Marla McDonald, CJIS Audit Unit, presented this topic. The CJIS Audit Unit of the FBI is proposing to expand the Criminal History Record Information Review and the National Fingerprint File audits to include noncriminal justice agencies with direct access to III for emergency child placement.

Ms. Robin Stark, CJIS Audit Unit Chief, stated the staff paper was to inform the Council of CJIS intent to audit agencies who have access to CJIS systems. Random audits will include those agencies authorized to conduct Purpose Code X inquires; these additional audits should begin at the next biennial audit. Chairman Rehmann suggested that both the Sanctions

Committee and the Standards Committee review the audit proposal and offer any comments directly to Ms. Stark with a copy to Ms. Morrison. The goal is to lay out the framework for the Compact Council's audit and sanctions with the intent to use one audit process.

Topic #8 Generation of IAFIS Responses Independent of the Submission Methodology

Mrs. Barbara Wiles, Compact Office staff, presented this topic. The CJIS Division recently completed a feasibility study on generating manual responses to electronic fingerprint submissions when a state does not have the telecommunications infrastructure to forward the electronic response back to the submitting agency. CJIS is scheduled to conduct a pilot with the American Banking Association (ABA) in the spring of 2002 and evaluate the impact on CJIS systems and workload to accommodate manual responses to electronic submissions. CJIS has been asked to give consideration to other viable alternative response mechanisms such as internet technologies. CJIS will study this possibility after the NICS E-CHECK project is operationally effective. CJIS will update the Council on the results of the ABA pilot and other viable alternative responses as information becomes available.

Topic #9 Legislative Update

Mr. Danny Moyer of the CJIS Access and Integrity Unit presented this topic and provided a handout (see Attachment 7) on current legislation that could impact the CJIS Division. Following Mr. Moyer's presentation, Mr. Gary Cooper, SEARCH, and Mr. Bobby Hamil, CJIS Programs Development Section presented additional information. Mr. Moyer's presentation included comments on the following:

USA Patriot Act of 2001

Section 403 - Mr. Moyer addressed Section 403 of the USA Patriot Act which provides NCIC and III extracts to the Department of State (DOS) and Immigration and Naturalization Service (INS). CJIS staff has been involved in numerous teleconferences with the DOS and INS. Section 403 (d) includes a reference to the Compact, indicating all noncriminal justice checks are to be fingerprint- based. Mr. Moyer stated that the CJIS Division has resisted name-based checks on any noncriminal justice checks.

Section 1012 - Mr. Moyer explained that the hazmat drivers' background checks are to be fingerprint-based and that an opportunity for a state background check prior to submission to the FBI exists in the law. The Department of Transportation will make the fitness determinations for issuing hazardous material licenses.

Proposed CFR change

Mr. Moyer noted that in order to effectuate Jenna's Act (Public Law 106-560), the U.S. Department of Justice will publish proposed regulations. The portion dealing with the criminal history backgrounding of private prison transport company employees will require pre-

employment screening. The proposed regulations will require fingerprint-based background checks. The results of the checks are to be communicated through the state criminal history record repository to the governmental criminal justice agency which will perform the fitness determination.

The Council discussion on Mr. Moye's update included concerns over INS's use of a III extract for noncriminal justice purposes and the false negatives that will occur from such use; Hazmat checks being coordinated through state repositories in those states with resources to process the checks; workload issues, impact to local law enforcement if tasked with fingerprinting all persons affected by the USA Patriot Act; and the perception of additional unfunded mandates to the state repositories.

Mr. Bobby Hamil, FBI CJIS, provided information regarding CJIS's involvement in the implementation of the USA Patriot Act. Mr. Hamil expressed that CJIS continues to endorse that Patriot's Act background checks be fingerprint supported. Mr. Hamil also noted the ambiguities in many of the new laws regarding the type of background check, the responsible parties for conducting the check and determining suitability. He also provided information contained in the III extracts provided to DOS and INS would be limited to the index of individuals with a foreign or unknown place of birth.

Compact Council Action: Lt. Col. Jeff Harmon made a motion to authorize the Chair of the Compact Council to write to the appropriate parties regarding the Hazmat requirements in the Patriot Act and the flight school requirements in the Aviation Security Act to express the view of the Council that when possible the checks go through the states and only go direct to the FBI in those cases when the state opts not to process the check and that the appropriate parties coordinate with the states to try to identify a methodology at the state level for the capture of the fingerprints necessary for the background checks. Seconded by Mr. Bill Casey. The motion carried.

Compact Council Action: Lt. Col. Jeff Harmon made a motion to authorize the chair to communicate to the Director of INS that the view of the Council does not authorize them to utilize an extract of the III database in conducting noncriminal justice criminal history background checks and inquiring as to the need for the extract, given that for criminal justice purposes INS already has full access to III criminal history record information. Seconded by Mr. Bob Armstrong. The motion failed.

Compact Council Action: Motion by Ms. Donna Uzzell that the chairman correspond with INS pointing out a conflict between the Patriot Act and the Compact. The content of the letter should address the following: the education of INS as to the authority of the Compact Council concerning regulating use of CHRI for noncriminal justice purposes; advising the INS specifically that the use of an extract appears to be contrary to provisions of the Compact; seeking from INS information as to the business needs for the utilization of data provided to them via the extract; inviting both comment and response for the INS to attend the next Compact Council meeting and advise the INS that the Council will insure that the provisions of the Compact are complied with. The letter would also provide assistance

**assuring compliance with the Compact while taking into account the needs of INS.
Seconded by Mr. William Casey. Motion carried.**

Mr. Gary Cooper, SEARCH Executive Director, distributed a handout (see Attachment 8) containing current grant information and legislation of interest to the Council. Mr. Cooper touched on HR1, the Education Bill, and S1830, Senator DeWine's amendment to the Volunteers for Children Act (VCA). The Education Bill includes a provision that would change the definition of the provider under the National Child Protection Act and would expand that definition to include teachers and applicants for school employment. Senator DeWine introduced the proposed VCA amendment bill. This bill is a modification to the bill introduced last year, which Search, the Compact Council, and the APB supported. Under this bill, the Council would develop model fitness standards and provide other forms of assistance to states in connection with national searches under the National Child Protection Act and make annual reports to the President and the Congress concerning such searches and authorizes \$1 million for the fiscal year for the Compact Council. Monies would be appropriated to the FBI in support of this activity. Mr. Cooper also stated that the Congress is looking at biometrics for identification in a variety of purposes, as indicated in bills.

Topic #10 Standards Committee Report - Alternatives for Acquiring Responses to Noncriminal Justice Record Requests

Lt. Col. Harmon presented this topic. The Standards Committee considered a proposal to allow local criminal justice agencies the authority to access III records after positive identification of the subject's applicant fingerprints. Currently, only state central repositories have the authority to use the III for this intended purpose. In expanding use of III/Purpose Code I, the repository would shift or delegate the authority to the local criminal justice entity. The committee's recommendation was not to endorse the expansion of Purpose Code I use.

Topic #11 Standards Committee Report on NFF Implementation Plan for Non-NFF Compact States

Lt. Col. Harmon presented this topic, which was placed on the Standards Committee agenda to promote discussion of how Compact states should develop implementation plans to participate in the NFF Program, fulfilling a provision of the Compact. However, Chairman Rehmann presented a letter from CJIS Assistant Director in Charge Michael Kirkpatrick (see Attachment 9) which indicated that further expansion of the NFF Program likely could not occur until certain IAFIS enhancements were in place. The Standards Committee decided that additional information on impediments to NFF would be valuable to those Compact states anticipating joining the NFF Program. The Standards Committee requested the meeting be held at CJIS to facilitate discussions between the appropriate Compact state representatives, CJIS technical, policy and operations subject matter experts, members of the Identification Services Subcommittee and the National Law Enforcement Telecommunications. The Standards Committee requested information on the processes in place at CJIS for handling NFF responses, the vision or the original concept of the NFF, current day implementation of the NFF and cost benefits analysis to include the overall cost savings realized.

Two issues of concern for the FBI are an increased workload in the manual processing and compiling of NFF records and a potential degradation of service by expanding NFF participation. The goal of the meeting would be to find out what problems exist in the FBI system now. Mr. Tom Bush noted that according to CJIS technical staff an upgrade from Bisync to TCP/IP was needed prior to expansion. The upgrade is scheduled to occur November 2002. Additionally, a study is needed to address the means to automate and append the NFF records to the FBI identification record. Chairman Rehmann suggested a joint effort between the Council and the FBI to develop an implementation schedule. FBI staff was asked to coordinate the requested meeting in late February or early March 2002.

Topic #12 Mission Statement/Goals/Objectives and Work Plan

The final draft of the Council's Strategic Plan document was presented for the Council's approval.

Compact Council Action: Mr. William Casey made a motion to adopt the mission statement, goals, and objectives and work plan. Seconded by Lt. Daimler. Motion carried.

Chairman Rehmann noted this document that will be revised as necessary.

Topic #13 Standards Committee Report on Source Documentation for Policy and Compact Council Rules

Lt. Col. Harmon presented this topic for information. The Standards Committee discussed the issue of the documentation relative not only to the Compact Council but to the noncriminal justice use of III in general. The Committee expressed a desire for one document which contains all III information, relevant to both criminal justice and noncriminal justice use of the system. CJIS staff is currently revising the III Manual and could include a section on NFF and create an index tab for future Compact rules, procedures, and policies.

Topic #14 Expanded Use of the Emergency Child Placement Rule

New Jersey has requested the Council to give consideration to the number of days allowed to submit the follow-up fingerprints for caregivers providing child placement in exigent circumstances. Alaska also has a similar concern about the time issue. Ms. Uzzell pointed out that some of the sheriffs' offices print noncriminal justice users on specific days of the week and there has been difficulty in trying to make the deadline. It was noted that a request to expand the time frame was reasonable one, when implementing the process. Mr. Huguley added that

the Department of Social Services in South Carolina, which has investigative responsibility, has also expressed concern about the strictness of that time frame and would like to see it extended.

Chairman Rehmann suggested state agencies submit concerns in writing to the Council by April 2002. The discussion will be placed on the agenda for the May meeting. The Chairman also recommended a representative from the state agency be available to speak to those concerns at that time. If the state agency representative cannot attend, at a minimum, the agency needs to brief a state Compact Officer or Council Member, so they can articulate the concerns on the agency's behalf. Chairman Rehmann commented that the five-day time frame for the submission of fingerprints was one of compromise and came after much debate of the Council.

Topic #15 Process to Solicit Topics for Discussion

In the interest of time to cover more pressing issues, this topic was not addressed.

Topic #16 Proposed Changes to the Code of Federal Regulations Title 28, Part 20

Mr. Hal Sklar, CJIS Access and Integrity Unit, presented this topic which encompassed six unassociated areas that have been reexamined over the past year and resulted in suggested changes to the Code of Federal Regulations (CFR).

The first subject discussed was privatization of administration of noncriminal justice functions. Council members discussed the growing need by governmental agencies to outsource functions such as completing background checks and that 92-544 authorized noncriminal justice agencies have the same outsourcing needs. Chairman Rehmann formed an ad hoc committee to consider the issue of privatization and the conditions under which privatization might occur; members included Lt. Col. Marge Kolpa, Ms. Kathy Dillaman and Mr. Bob McKeever. This ad hoc committee was tasked to work in conjunction with CJIS Access & Integrity Unit to formulate guidelines for noncriminal justice privatization.

The second issue dealt with the current definition of a criminal justice agency. Lt. Daimler noted that applying the role of the agency as the determining factor as apposed the apportionment of the budget should be the reason used in expanding the definition in the CFR. Mr. Sklar reported that the APB's Northeast Working Group recommended the direction be more in line with task and function-oriented and not budget-oriented. The analysis of the governmental agency or subunit allows the focus to be on the particular tasks engaged in.

The third issue brought to the Council's attention was the need to interpret the scope of financial institutions to reflect modern business practices. Currently a bank holding company may have a centralized human resource function, regardless of the geographical location of the operating banking entity. All screening is completed at the centralized human resource location. The bank holding company itself is not a federally insured financial institution and

therefore not currently eligible to receive CHRI. CJIS has been approached repeatedly to change the CFR to reflect modern business practices. Changes would be consistent with ensuring the security of the federally chartered financial institutions. The APB approved this change to the CFR. The Council requested to comment on the drafted rule prior to it being published as a proposed rule.

The fourth issues discussed dealt with Police Officer Standards and Training (POST) academies and Sentencing Commissions for the direct access to CHRI. The Council opined that background checks for students attending a POST academy should be authorized through an approved 92-544 statute and that a state bureau's fingerprint processing backlog does not justify a change to the CFR to allow these noncriminal justice agencies access to III.

Compact Council Action: Mr. Mark Huguley made a motion to not proceed with the recommendation. Seconded by Cliff Daimler. Motion carried.

Compact Council Action: Mr. Bill Casey made a motion to agree with the recommendation on Issue #5 "To enlarge the FBI's authority to receive and retain Nonserious Offenses (NSOs)". Seconded by Mr. Terry Hoil. Motion carried.

No additional discussion was held on issue #5.

Topic #17 FBI Status on Name Checks for Applicant Fingerprint Submissions IAFIS Due to Illegibility

Mr. Hamil presented this topic, reporting no current backlog of name checks conducted by CJIS staff due to illegible fingerprint submissions. Adequate staff has been assigned to handle the name checks, with a turn around of three or four days for faxed requests. Mailed requests are processed in approximately two weeks. CJIS believes this is an acceptable turnaround time.

Mr. Heppner said the recommendation from the APB was to automatically generate a name search upon the second rejection. Mr. Bush noted that the current process is a long-term interim fix. It does not appear this is going to be either a quick or inexpensive thing for the FBI to do, but the FBI is exploring the feasibility of automating the process.

Other Business

Chairman Rehmann announced that he received comments from the Department of Justice on the Dispute Adjudication Rule just prior to the meeting. The Council will discuss those comments at the May meeting.

Compact Council Action: Motion by Mr. William Casey to adjourn the meeting.

Meeting adjourned on Wednesday, January 9, 2002, at 4:35 p.m.